



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5161

Introduced 2/8/2012, by Rep. Kelly Burke

SYNOPSIS AS INTRODUCED:

740 ILCS 21/80
740 ILCS 22/213
750 ILCS 60/214

from Ch. 40, par. 2312-14

Amends the Stalking No Contact Order Act, the Civil No Contact Order Act, and the Illinois Domestic Violence Act of 1986 concerning the educational placement of minor respondents. Provides that the change of educational placement of a student with a disability who has an individualized educational plan (IEP) or a Section 504 plan pursuant to the federal Rehabilitation Act of 1973 shall be governed by the procedures provided in those Acts, case law, federal regulations, the School Code and administrative rules adopted by the State Board of Education. In language making the parents or legal guardians responsible for transportation and other costs associated with the change of school by the respondent if the court orders a transfer of the respondent to another school, creates an exception if the court finds that the parents, guardian, or legal custodian of the respondent is unable to afford those costs and the imposition of costs would prohibit the respondent from attending school. Provides that: costs may not be imposed for special education and related services required under a respondent's IEP or Section 504 plan including transportation whether or not listed on the respondent's IEP as a related service; and the court should seek the advice of appropriate local school officials and personnel to ascertain the special education status of the petitioner and the respondent, to assess the feasibility and details of a safety plan designed to protect the petitioner during school hours, on school property and at school-sponsored events, and to weigh options for alternative educational programs or placements for the respondent. Deletes language providing that the respondent bears the burden of proving by a preponderance of the evidence that a transfer, change of placement, or change of program of the respondent is not available. Makes other changes. Effective immediately.

LRB097 18261 AJO 63487 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Stalking No Contact Order Act is amended by
5 changing Section 80 as follows:

6 (740 ILCS 21/80)

7 Sec. 80. Stalking no contact orders; remedies.

8 (a) If the court finds that the petitioner has been a
9 victim of stalking, a stalking no contact order shall issue;
10 provided that the petitioner must also satisfy the requirements
11 of Section 95 on emergency orders or Section 100 on plenary
12 orders. The petitioner shall not be denied a stalking no
13 contact order because the petitioner or the respondent is a
14 minor. The court, when determining whether or not to issue a
15 stalking no contact order, may not require physical injury on
16 the person of the petitioner. Modification and extension of
17 prior stalking no contact orders shall be in accordance with
18 this Act.

19 (b) A stalking no contact order shall order one or more of
20 the following:

21 (1) prohibit the respondent from threatening to commit
22 or committing stalking;

23 (2) order the respondent not to have any contact with

1 the petitioner or a third person specifically named by the
2 court;

3 (3) prohibit the respondent from knowingly coming
4 within, or knowingly remaining within a specified distance
5 of the petitioner or the petitioner's residence, school,
6 daycare, or place of employment, or any specified place
7 frequented by the petitioner; however, the court may order
8 the respondent to stay away from the respondent's own
9 residence, school, or place of employment only if the
10 respondent has been provided actual notice of the
11 opportunity to appear and be heard on the petition;

12 (4) prohibit the respondent from possessing a Firearm
13 Owners Identification Card, or possessing or buying
14 firearms; and

15 (5) order other injunctive relief the court determines
16 to be necessary to protect the petitioner or third party
17 specifically named by the court.

18 (b-5) When the petitioner and the respondent attend the
19 same public, private, or non-public elementary, middle, or high
20 school, the court when issuing a stalking no contact order and
21 providing relief shall consider the severity of the act, any
22 continuing physical danger or emotional distress to the
23 petitioner, the educational rights guaranteed to the
24 petitioner and respondent under federal and State law, the
25 availability of a transfer of the respondent to another school,
26 a change of placement or a change of program of the respondent,

1 the expense, difficulty, and educational disruption that would
2 be caused by a transfer of the respondent to another school,
3 and any other relevant facts of the case. The court may order
4 that the respondent not attend the public, private, or
5 non-public elementary, middle, or high school attended by the
6 petitioner, order that the respondent accept a change of
7 placement or program, as determined by the school district or
8 private or non-public school, or place restrictions on the
9 respondent's movements within the school attended by the
10 petitioner. ~~The respondent bears the burden of proving by a~~
11 ~~preponderance of the evidence that a transfer, change of~~
12 ~~placement, or change of program of the respondent is not~~
13 ~~available.~~ The respondent ~~also~~ bears the burden of production
14 with respect to the expense, difficulty, and educational
15 disruption that would be caused by a transfer of the respondent
16 to another school. A transfer, change of placement, or change
17 of program is not unavailable to the respondent solely on the
18 ground that the respondent does not agree with the school
19 district's or private or non-public school's transfer, change
20 of placement, or change of program or solely on the ground that
21 the respondent fails or refuses to consent to or otherwise does
22 not take an action required to effectuate a transfer, change of
23 placement, or change of program. When a court orders a
24 respondent to stay away from the public, private, or non-public
25 school attended by the petitioner and the respondent requests a
26 transfer to another attendance center within the respondent's

1 school district or private or non-public school, the school
2 district or private or non-public school shall have sole
3 discretion to determine the attendance center to which the
4 respondent is transferred. In the event the court order results
5 in a transfer of the minor respondent to another attendance
6 center, a change in the respondent's placement, or a change of
7 the respondent's program, the parents, guardian, or legal
8 custodian of the respondent is responsible for transportation
9 and other costs associated with the transfer or change.
10 However, the change of educational placement or program of a
11 student with a disability who has an individualized educational
12 plan (IEP) pursuant to the federal Individuals with
13 Disabilities Educational Improvement Act of 2004 or a Section
14 504 plan pursuant to the federal Rehabilitation Act of 1973
15 shall be governed by the procedures provided in those Acts,
16 relevant case law, applicable federal regulations, the School
17 Code, and administrative rules adopted by the State Board of
18 Education.

19 (b-6) The court may order the parents, guardian, or legal
20 custodian of a minor respondent to take certain actions or to
21 refrain from taking certain actions to ensure that the
22 respondent complies with the order. In the event the court
23 orders a transfer of the respondent to another school, the
24 parents, guardian, or legal custodian of the respondent are
25 responsible for transportation and other costs associated with
26 the change of school by the respondent unless the court finds

1 that the parents, guardian, or legal custodian of the
2 respondent is unable to afford such costs and the imposition of
3 costs would prohibit the respondent from attending school.
4 Costs shall not be imposed for special education and related
5 services required under a respondent's IEP or Section 504 plan
6 including transportation whether or not listed on the
7 respondent's IEP as a related service. The court should seek
8 the advice of appropriate local school officials and personnel
9 to ascertain the special education status of the petitioner and
10 the respondent, to assess the feasibility and details of a
11 safety plan designed to protect the petitioner during school
12 hours, on school property and at school-sponsored events, and
13 to weigh options for alternative educational programs or
14 placements for the respondent.

15 (b-7) The court shall not hold a school district or private
16 or non-public school or any of its employees in civil or
17 criminal contempt unless the school district or private or
18 non-public school has been allowed to intervene.

19 (b-8) The court may hold the parents, guardian, or legal
20 custodian of a minor respondent in civil or criminal contempt
21 for a violation of any provision of any order entered under
22 this Act for conduct of the minor respondent in violation of
23 this Act if the parents, guardian, or legal custodian directed,
24 encouraged, or assisted the respondent minor in such conduct.

25 (c) The court may award the petitioner costs and attorneys
26 fees if a stalking no contact order is granted.

1 (d) Monetary damages are not recoverable as a remedy.

2 (Source: P.A. 96-246, eff. 1-1-10; 97-294, eff. 1-1-12.)

3 Section 10. The Civil No Contact Order Act is amended by
4 changing Section 213 as follows:

5 (740 ILCS 22/213)

6 Sec. 213. Civil no contact order; remedies.

7 (a) If the court finds that the petitioner has been a
8 victim of non-consensual sexual conduct or non-consensual
9 sexual penetration, a civil no contact order shall issue;
10 provided that the petitioner must also satisfy the requirements
11 of Section 214 on emergency orders or Section 215 on plenary
12 orders. The petitioner shall not be denied a civil no contact
13 order because the petitioner or the respondent is a minor. The
14 court, when determining whether or not to issue a civil no
15 contact order, may not require physical injury on the person of
16 the victim. Modification and extension of prior civil no
17 contact orders shall be in accordance with this Act.

18 (b) (Blank).

19 (b-5) The court may provide relief as follows:

20 (1) prohibit the respondent from knowingly coming
21 within, or knowingly remaining within, a specified
22 distance from the petitioner;

23 (2) restrain the respondent from having any contact,
24 including nonphysical contact, with the petitioner

1 directly, indirectly, or through third parties, regardless
2 of whether those third parties know of the order;

3 (3) prohibit the respondent from knowingly coming
4 within, or knowingly remaining within, a specified
5 distance from the petitioner's residence, school, day care
6 or other specified location;

7 (4) order the respondent to stay away from any property
8 or animal owned, possessed, leased, kept, or held by the
9 petitioner and forbid the respondent from taking,
10 transferring, encumbering, concealing, harming, or
11 otherwise disposing of the property or animal; and

12 (5) order any other injunctive relief as necessary or
13 appropriate for the protection of the petitioner.

14 (b-6) When the petitioner and the respondent attend the
15 same public or private elementary, middle, or high school, the
16 court when issuing a civil no contact order and providing
17 relief shall consider the severity of the act, any continuing
18 physical danger or emotional distress to the petitioner, the
19 educational rights guaranteed to the petitioner and respondent
20 under federal and State law, the availability of a transfer of
21 the respondent to another school, a change of placement or a
22 change of program of the respondent, the expense, difficulty,
23 and educational disruption that would be caused by a transfer
24 of the respondent to another school, and any other relevant
25 facts of the case. The court may order that the respondent not
26 attend the public, private, or non-public elementary, middle,

1 or high school attended by the petitioner, order that the
2 respondent accept a change of placement or program, as
3 determined by the school district or private or non-public
4 school, or place restrictions on the respondent's movements
5 within the school attended by the petitioner. ~~The respondent~~
6 ~~bears the burden of proving by a preponderance of the evidence~~
7 ~~that a transfer, change of placement, or change of program of~~
8 ~~the respondent is not available.~~ The respondent also bears the
9 burden of production with respect to the expense, difficulty,
10 and educational disruption that would be caused by a transfer
11 of the respondent to another school. A transfer, change of
12 placement, or change of program is not unavailable to the
13 respondent solely on the ground that the respondent does not
14 agree with the school district's or private or non-public
15 school's transfer, change of placement, or change of program or
16 solely on the ground that the respondent fails or refuses to
17 consent to or otherwise does not take an action required to
18 effectuate a transfer, change of placement, or change of
19 program. When a court orders a respondent to stay away from the
20 public, private, or non-public school attended by the
21 petitioner and the respondent requests a transfer to another
22 attendance center within the respondent's school district or
23 private or non-public school, the school district or private or
24 non-public school shall have sole discretion to determine the
25 attendance center to which the respondent is transferred. In
26 the event the court order results in a transfer of the minor

1 respondent to another attendance center, a change in the
2 respondent's placement, or a change of the respondent's
3 program, the parents, guardian, or legal custodian of the
4 respondent is responsible for transportation and other costs
5 associated with the transfer or change. However, the change of
6 educational placement or program of a student with a disability
7 who has an individualized educational plan (IEP) pursuant to
8 the federal Individuals with Disabilities Educational
9 Improvement Act of 2004 or a Section 504 plan pursuant to the
10 federal Rehabilitation Act of 1973 shall be governed by the
11 procedures provided in those Acts, relevant case law,
12 applicable federal regulations, the School Code and
13 administrative rules adopted by the State Board of Education.

14 (b-7) The court may order the parents, guardian, or legal
15 custodian of a minor respondent to take certain actions or to
16 refrain from taking certain actions to ensure that the
17 respondent complies with the order. In the event the court
18 orders a transfer of the respondent to another school, the
19 parents or legal guardians of the respondent are responsible
20 for transportation and other costs associated with the change
21 of school by the respondent unless the court finds that the
22 parents, guardian, or legal custodian of the respondent is
23 unable to afford such costs and the imposition of costs would
24 prohibit the respondent from attending school. Costs shall not
25 be imposed for special education and related services required
26 under a respondent's IEP or Section 504 plan including

1 transportation whether or not listed on the respondent's IEP as
2 a related service. The court should seek the advice of
3 appropriate local school officials and personnel to ascertain
4 the special education status of the petitioner and the
5 respondent, to assess the feasibility and details of a safety
6 plan designed to protect the petitioner during school hours, on
7 school property and at school-sponsored events, and to weigh
8 options for alternative educational programs or placements for
9 the respondent.

10 (c) Denial of a remedy may not be based, in whole or in
11 part, on evidence that:

12 (1) the respondent has cause for any use of force,
13 unless that cause satisfies the standards for justifiable
14 use of force provided by Article VII of the Criminal Code
15 of 1961;

16 (2) the respondent was voluntarily intoxicated;

17 (3) the petitioner acted in self-defense or defense of
18 another, provided that, if the petitioner utilized force,
19 such force was justifiable under Article VII of the
20 Criminal Code of 1961;

21 (4) the petitioner did not act in self-defense or
22 defense of another;

23 (5) the petitioner left the residence or household to
24 avoid further non-consensual sexual conduct or
25 non-consensual sexual penetration by the respondent; or

26 (6) the petitioner did not leave the residence or

1 household to avoid further non-consensual sexual conduct
2 or non-consensual sexual penetration by the respondent.

3 (d) Monetary damages are not recoverable as a remedy.

4 (Source: P.A. 96-311, eff. 1-1-10; 97-294, eff. 1-1-12.)

5 Section 15. The Illinois Domestic Violence Act of 1986 is
6 amended by changing Section 214 as follows:

7 (750 ILCS 60/214) (from Ch. 40, par. 2312-14)

8 Sec. 214. Order of protection; remedies.

9 (a) Issuance of order. If the court finds that petitioner
10 has been abused by a family or household member or that
11 petitioner is a high-risk adult who has been abused, neglected,
12 or exploited, as defined in this Act, an order of protection
13 prohibiting the abuse, neglect, or exploitation shall issue;
14 provided that petitioner must also satisfy the requirements of
15 one of the following Sections, as appropriate: Section 217 on
16 emergency orders, Section 218 on interim orders, or Section 219
17 on plenary orders. Petitioner shall not be denied an order of
18 protection because petitioner or respondent is a minor. The
19 court, when determining whether or not to issue an order of
20 protection, shall not require physical manifestations of abuse
21 on the person of the victim. Modification and extension of
22 prior orders of protection shall be in accordance with this
23 Act.

24 (b) Remedies and standards. The remedies to be included in

1 an order of protection shall be determined in accordance with
2 this Section and one of the following Sections, as appropriate:
3 Section 217 on emergency orders, Section 218 on interim orders,
4 and Section 219 on plenary orders. The remedies listed in this
5 subsection shall be in addition to other civil or criminal
6 remedies available to petitioner.

7 (1) Prohibition of abuse, neglect, or exploitation.
8 Prohibit respondent's harassment, interference with
9 personal liberty, intimidation of a dependent, physical
10 abuse, or willful deprivation, neglect or exploitation, as
11 defined in this Act, or stalking of the petitioner, as
12 defined in Section 12-7.3 of the Criminal Code of 1961, if
13 such abuse, neglect, exploitation, or stalking has
14 occurred or otherwise appears likely to occur if not
15 prohibited.

16 (2) Grant of exclusive possession of residence.
17 Prohibit respondent from entering or remaining in any
18 residence, household, or premises of the petitioner,
19 including one owned or leased by respondent, if petitioner
20 has a right to occupancy thereof. The grant of exclusive
21 possession of the residence, household, or premises shall
22 not affect title to real property, nor shall the court be
23 limited by the standard set forth in Section 701 of the
24 Illinois Marriage and Dissolution of Marriage Act.

25 (A) Right to occupancy. A party has a right to
26 occupancy of a residence or household if it is solely

1 or jointly owned or leased by that party, that party's
2 spouse, a person with a legal duty to support that
3 party or a minor child in that party's care, or by any
4 person or entity other than the opposing party that
5 authorizes that party's occupancy (e.g., a domestic
6 violence shelter). Standards set forth in subparagraph
7 (B) shall not preclude equitable relief.

8 (B) Presumption of hardships. If petitioner and
9 respondent each has the right to occupancy of a
10 residence or household, the court shall balance (i) the
11 hardships to respondent and any minor child or
12 dependent adult in respondent's care resulting from
13 entry of this remedy with (ii) the hardships to
14 petitioner and any minor child or dependent adult in
15 petitioner's care resulting from continued exposure to
16 the risk of abuse (should petitioner remain at the
17 residence or household) or from loss of possession of
18 the residence or household (should petitioner leave to
19 avoid the risk of abuse). When determining the balance
20 of hardships, the court shall also take into account
21 the accessibility of the residence or household.
22 Hardships need not be balanced if respondent does not
23 have a right to occupancy.

24 The balance of hardships is presumed to favor
25 possession by petitioner unless the presumption is
26 rebutted by a preponderance of the evidence, showing

1 that the hardships to respondent substantially
2 outweigh the hardships to petitioner and any minor
3 child or dependent adult in petitioner's care. The
4 court, on the request of petitioner or on its own
5 motion, may order respondent to provide suitable,
6 accessible, alternate housing for petitioner instead
7 of excluding respondent from a mutual residence or
8 household.

9 (3) Stay away order and additional prohibitions. Order
10 respondent to stay away from petitioner or any other person
11 protected by the order of protection, or prohibit
12 respondent from entering or remaining present at
13 petitioner's school, place of employment, or other
14 specified places at times when petitioner is present, or
15 both, if reasonable, given the balance of hardships.
16 Hardships need not be balanced for the court to enter a
17 stay away order or prohibit entry if respondent has no
18 right to enter the premises.

19 (A) If an order of protection grants petitioner
20 exclusive possession of the residence, or prohibits
21 respondent from entering the residence, or orders
22 respondent to stay away from petitioner or other
23 protected persons, then the court may allow respondent
24 access to the residence to remove items of clothing and
25 personal adornment used exclusively by respondent,
26 medications, and other items as the court directs. The

1 right to access shall be exercised on only one occasion
2 as the court directs and in the presence of an
3 agreed-upon adult third party or law enforcement
4 officer.

5 (B) When the petitioner and the respondent attend
6 the same public, private, or non-public elementary,
7 middle, or high school, the court when issuing an order
8 of protection and providing relief shall consider the
9 severity of the act, any continuing physical danger or
10 emotional distress to the petitioner, the educational
11 rights guaranteed to the petitioner and respondent
12 under federal and State law, the availability of a
13 transfer of the respondent to another school, a change
14 of placement or a change of program of the respondent,
15 the expense, difficulty, and educational disruption
16 that would be caused by a transfer of the respondent to
17 another school, and any other relevant facts of the
18 case. The court may order that the respondent not
19 attend the public, private, or non-public elementary,
20 middle, or high school attended by the petitioner,
21 order that the respondent accept a change of placement
22 or change of program, as determined by the school
23 district or private or non-public school, or place
24 restrictions on the respondent's movements within the
25 school attended by the petitioner. ~~The respondent~~
26 ~~bears the burden of proving by a preponderance of the~~

1 ~~evidence that a transfer, change of placement, or~~
2 ~~change of program of the respondent is not available.~~

3 The respondent ~~also~~ bears the burden of production with
4 respect to the expense, difficulty, and educational
5 disruption that would be caused by a transfer of the
6 respondent to another school. A transfer, change of
7 placement, or change of program is not unavailable to
8 the respondent solely on the ground that the respondent
9 does not agree with the school district's or private or
10 non-public school's transfer, change of placement, or
11 change of program or solely on the ground that the
12 respondent fails or refuses to consent or otherwise
13 does not take an action required to effectuate a
14 transfer, change of placement, or change of program.
15 When a court orders a respondent to stay away from the
16 public, private, or non-public school attended by the
17 petitioner and the respondent requests a transfer to
18 another attendance center within the respondent's
19 school district or private or non-public school, the
20 school district or private or non-public school shall
21 have sole discretion to determine the attendance
22 center to which the respondent is transferred. In the
23 event the court order results in a transfer of the
24 minor respondent to another attendance center, a
25 change in the respondent's placement, or a change of
26 the respondent's program, the parents, guardian, or

1 legal custodian of the respondent is responsible for
2 transportation and other costs associated with the
3 transfer or change. However, the change of educational
4 placement or program of a student with a disability who
5 has an individualized educational plan (IEP) pursuant
6 to the federal Individuals with Disabilities
7 Educational Improvement Act of 2004 or a Section 504
8 plan pursuant to the federal Rehabilitation Act of 1973
9 shall be governed by the procedures provided in those
10 Acts, relevant case law, applicable federal
11 regulations, the School Code, and administrative rules
12 adopted by the State Board of Education.

13 (C) The court may order the parents, guardian, or
14 legal custodian of a minor respondent to take certain
15 actions or to refrain from taking certain actions to
16 ensure that the respondent complies with the order. ~~The~~
17 ~~court may order the parents, guardian, or legal~~
18 ~~custodian of a minor respondent to take certain actions~~
19 ~~or to refrain from taking certain actions to ensure~~
20 ~~that the respondent complies with the order.~~ In the
21 event the court orders a transfer of the respondent to
22 another school, the parents, guardian, or legal
23 custodian of the respondent is responsible for
24 transportation and other costs associated with the
25 change of school by the respondent unless the court
26 finds that the parents, guardian, or legal custodian of

1 the respondent is unable to afford such costs and the
2 imposition of costs would prohibit the respondent from
3 attending school. Costs shall not be imposed for
4 special education and related services required under
5 a respondent's IEP or Section 504 plan including
6 transportation whether or not listed on the
7 respondent's IEP as a related service. The court should
8 seek the advice of appropriate local school officials
9 and personnel to ascertain the special education
10 status of the petitioner and the respondent, to assess
11 the feasibility and details of a safety plan designed
12 to protect the petitioner during school hours, on
13 school property and at school-sponsored events, and to
14 weigh options for alternative educational programs or
15 placements for the respondent.

16 (4) Counseling. Require or recommend the respondent to
17 undergo counseling for a specified duration with a social
18 worker, psychologist, clinical psychologist, psychiatrist,
19 family service agency, alcohol or substance abuse program,
20 mental health center guidance counselor, agency providing
21 services to elders, program designed for domestic violence
22 abusers or any other guidance service the court deems
23 appropriate. The Court may order the respondent in any
24 intimate partner relationship to report to an Illinois
25 Department of Human Services protocol approved partner
26 abuse intervention program for an assessment and to follow

1 all recommended treatment.

2 (5) Physical care and possession of the minor child. In
3 order to protect the minor child from abuse, neglect, or
4 unwarranted separation from the person who has been the
5 minor child's primary caretaker, or to otherwise protect
6 the well-being of the minor child, the court may do either
7 or both of the following: (i) grant petitioner physical
8 care or possession of the minor child, or both, or (ii)
9 order respondent to return a minor child to, or not remove
10 a minor child from, the physical care of a parent or person
11 in loco parentis.

12 If a court finds, after a hearing, that respondent has
13 committed abuse (as defined in Section 103) of a minor
14 child, there shall be a rebuttable presumption that
15 awarding physical care to respondent would not be in the
16 minor child's best interest.

17 (6) Temporary legal custody. Award temporary legal
18 custody to petitioner in accordance with this Section, the
19 Illinois Marriage and Dissolution of Marriage Act, the
20 Illinois Parentage Act of 1984, and this State's Uniform
21 Child-Custody Jurisdiction and Enforcement Act.

22 If a court finds, after a hearing, that respondent has
23 committed abuse (as defined in Section 103) of a minor
24 child, there shall be a rebuttable presumption that
25 awarding temporary legal custody to respondent would not be
26 in the child's best interest.

1 (7) Visitation. Determine the visitation rights, if
2 any, of respondent in any case in which the court awards
3 physical care or temporary legal custody of a minor child
4 to petitioner. The court shall restrict or deny
5 respondent's visitation with a minor child if the court
6 finds that respondent has done or is likely to do any of
7 the following: (i) abuse or endanger the minor child during
8 visitation; (ii) use the visitation as an opportunity to
9 abuse or harass petitioner or petitioner's family or
10 household members; (iii) improperly conceal or detain the
11 minor child; or (iv) otherwise act in a manner that is not
12 in the best interests of the minor child. The court shall
13 not be limited by the standards set forth in Section 607.1
14 of the Illinois Marriage and Dissolution of Marriage Act.
15 If the court grants visitation, the order shall specify
16 dates and times for the visitation to take place or other
17 specific parameters or conditions that are appropriate. No
18 order for visitation shall refer merely to the term
19 "reasonable visitation".

20 Petitioner may deny respondent access to the minor
21 child if, when respondent arrives for visitation,
22 respondent is under the influence of drugs or alcohol and
23 constitutes a threat to the safety and well-being of
24 petitioner or petitioner's minor children or is behaving in
25 a violent or abusive manner.

26 If necessary to protect any member of petitioner's

1 family or household from future abuse, respondent shall be
2 prohibited from coming to petitioner's residence to meet
3 the minor child for visitation, and the parties shall
4 submit to the court their recommendations for reasonable
5 alternative arrangements for visitation. A person may be
6 approved to supervise visitation only after filing an
7 affidavit accepting that responsibility and acknowledging
8 accountability to the court.

9 (8) Removal or concealment of minor child. Prohibit
10 respondent from removing a minor child from the State or
11 concealing the child within the State.

12 (9) Order to appear. Order the respondent to appear in
13 court, alone or with a minor child, to prevent abuse,
14 neglect, removal or concealment of the child, to return the
15 child to the custody or care of the petitioner or to permit
16 any court-ordered interview or examination of the child or
17 the respondent.

18 (10) Possession of personal property. Grant petitioner
19 exclusive possession of personal property and, if
20 respondent has possession or control, direct respondent to
21 promptly make it available to petitioner, if:

22 (i) petitioner, but not respondent, owns the
23 property; or

24 (ii) the parties own the property jointly; sharing
25 it would risk abuse of petitioner by respondent or is
26 impracticable; and the balance of hardships favors

1 temporary possession by petitioner.

2 If petitioner's sole claim to ownership of the property
3 is that it is marital property, the court may award
4 petitioner temporary possession thereof under the
5 standards of subparagraph (ii) of this paragraph only if a
6 proper proceeding has been filed under the Illinois
7 Marriage and Dissolution of Marriage Act, as now or
8 hereafter amended.

9 No order under this provision shall affect title to
10 property.

11 (11) Protection of property. Forbid the respondent
12 from taking, transferring, encumbering, concealing,
13 damaging or otherwise disposing of any real or personal
14 property, except as explicitly authorized by the court, if:

15 (i) petitioner, but not respondent, owns the
16 property; or

17 (ii) the parties own the property jointly, and the
18 balance of hardships favors granting this remedy.

19 If petitioner's sole claim to ownership of the property
20 is that it is marital property, the court may grant
21 petitioner relief under subparagraph (ii) of this
22 paragraph only if a proper proceeding has been filed under
23 the Illinois Marriage and Dissolution of Marriage Act, as
24 now or hereafter amended.

25 The court may further prohibit respondent from
26 improperly using the financial or other resources of an

1 aged member of the family or household for the profit or
2 advantage of respondent or of any other person.

3 (11.5) Protection of animals. Grant the petitioner the
4 exclusive care, custody, or control of any animal owned,
5 possessed, leased, kept, or held by either the petitioner
6 or the respondent or a minor child residing in the
7 residence or household of either the petitioner or the
8 respondent and order the respondent to stay away from the
9 animal and forbid the respondent from taking,
10 transferring, encumbering, concealing, harming, or
11 otherwise disposing of the animal.

12 (12) Order for payment of support. Order respondent to
13 pay temporary support for the petitioner or any child in
14 the petitioner's care or custody, when the respondent has a
15 legal obligation to support that person, in accordance with
16 the Illinois Marriage and Dissolution of Marriage Act,
17 which shall govern, among other matters, the amount of
18 support, payment through the clerk and withholding of
19 income to secure payment. An order for child support may be
20 granted to a petitioner with lawful physical care or
21 custody of a child, or an order or agreement for physical
22 care or custody, prior to entry of an order for legal
23 custody. Such a support order shall expire upon entry of a
24 valid order granting legal custody to another, unless
25 otherwise provided in the custody order.

26 (13) Order for payment of losses. Order respondent to

1 pay petitioner for losses suffered as a direct result of
2 the abuse, neglect, or exploitation. Such losses shall
3 include, but not be limited to, medical expenses, lost
4 earnings or other support, repair or replacement of
5 property damaged or taken, reasonable attorney's fees,
6 court costs and moving or other travel expenses, including
7 additional reasonable expenses for temporary shelter and
8 restaurant meals.

9 (i) Losses affecting family needs. If a party is
10 entitled to seek maintenance, child support or
11 property distribution from the other party under the
12 Illinois Marriage and Dissolution of Marriage Act, as
13 now or hereafter amended, the court may order
14 respondent to reimburse petitioner's actual losses, to
15 the extent that such reimbursement would be
16 "appropriate temporary relief", as authorized by
17 subsection (a) (3) of Section 501 of that Act.

18 (ii) Recovery of expenses. In the case of an
19 improper concealment or removal of a minor child, the
20 court may order respondent to pay the reasonable
21 expenses incurred or to be incurred in the search for
22 and recovery of the minor child, including but not
23 limited to legal fees, court costs, private
24 investigator fees, and travel costs.

25 (14) Prohibition of entry. Prohibit the respondent
26 from entering or remaining in the residence or household

1 while the respondent is under the influence of alcohol or
2 drugs and constitutes a threat to the safety and well-being
3 of the petitioner or the petitioner's children.

4 (14.5) Prohibition of firearm possession.

5 (a) Prohibit a respondent against whom an order of
6 protection was issued from possessing any firearms
7 during the duration of the order if the order:

8 (1) was issued after a hearing of which such
9 person received actual notice, and at which such
10 person had an opportunity to participate;

11 (2) restrains such person from harassing,
12 stalking, or threatening an intimate partner of
13 such person or child of such intimate partner or
14 person, or engaging in other conduct that would
15 place an intimate partner in reasonable fear of
16 bodily injury to the partner or child; and

17 (3)(i) includes a finding that such person
18 represents a credible threat to the physical
19 safety of such intimate partner or child; or (ii)
20 by its terms explicitly prohibits the use,
21 attempted use, or threatened use of physical force
22 against such intimate partner or child that would
23 reasonably be expected to cause bodily injury.

24 Any Firearm Owner's Identification Card in the
25 possession of the respondent, except as provided in
26 subsection (b), shall be ordered by the court to be

1 turned over to the local law enforcement agency for
2 safekeeping. The court shall issue a warrant for
3 seizure of any firearm and Firearm Owner's
4 Identification Card in the possession of the
5 respondent, to be kept by the local law enforcement
6 agency for safekeeping, except as provided in
7 subsection (b). The period of safekeeping shall be for
8 the duration of the order of protection. The firearm or
9 firearms and Firearm Owner's Identification Card shall
10 be returned to the respondent at the end of the order
11 of protection.

12 (b) If the respondent is a peace officer as defined
13 in Section 2-13 of the Criminal Code of 1961, the court
14 shall order that any firearms used by the respondent in
15 the performance of his or her duties as a peace officer
16 be surrendered to the chief law enforcement executive
17 of the agency in which the respondent is employed, who
18 shall retain the firearms for safekeeping for the
19 duration of the order of protection.

20 (c) Upon expiration of the period of safekeeping,
21 if the firearms or Firearm Owner's Identification Card
22 cannot be returned to respondent because respondent
23 cannot be located, fails to respond to requests to
24 retrieve the firearms, or is not lawfully eligible to
25 possess a firearm, upon petition from the local law
26 enforcement agency, the court may order the local law

1 enforcement agency to destroy the firearms, use the
2 firearms for training purposes, or for any other
3 application as deemed appropriate by the local law
4 enforcement agency; or that the firearms be turned over
5 to a third party who is lawfully eligible to possess
6 firearms, and who does not reside with respondent.

7 (15) Prohibition of access to records. If an order of
8 protection prohibits respondent from having contact with
9 the minor child, or if petitioner's address is omitted
10 under subsection (b) of Section 203, or if necessary to
11 prevent abuse or wrongful removal or concealment of a minor
12 child, the order shall deny respondent access to, and
13 prohibit respondent from inspecting, obtaining, or
14 attempting to inspect or obtain, school or any other
15 records of the minor child who is in the care of
16 petitioner.

17 (16) Order for payment of shelter services. Order
18 respondent to reimburse a shelter providing temporary
19 housing and counseling services to the petitioner for the
20 cost of the services, as certified by the shelter and
21 deemed reasonable by the court.

22 (17) Order for injunctive relief. Enter injunctive
23 relief necessary or appropriate to prevent further abuse of
24 a family or household member or further abuse, neglect, or
25 exploitation of a high-risk adult with disabilities or to
26 effectuate one of the granted remedies, if supported by the

1 balance of hardships. If the harm to be prevented by the
2 injunction is abuse or any other harm that one of the
3 remedies listed in paragraphs (1) through (16) of this
4 subsection is designed to prevent, no further evidence is
5 necessary that the harm is an irreparable injury.

6 (c) Relevant factors; findings.

7 (1) In determining whether to grant a specific remedy,
8 other than payment of support, the court shall consider
9 relevant factors, including but not limited to the
10 following:

11 (i) the nature, frequency, severity, pattern and
12 consequences of the respondent's past abuse, neglect
13 or exploitation of the petitioner or any family or
14 household member, including the concealment of his or
15 her location in order to evade service of process or
16 notice, and the likelihood of danger of future abuse,
17 neglect, or exploitation to petitioner or any member of
18 petitioner's or respondent's family or household; and

19 (ii) the danger that any minor child will be abused
20 or neglected or improperly removed from the
21 jurisdiction, improperly concealed within the State or
22 improperly separated from the child's primary
23 caretaker.

24 (2) In comparing relative hardships resulting to the
25 parties from loss of possession of the family home, the
26 court shall consider relevant factors, including but not

1 limited to the following:

2 (i) availability, accessibility, cost, safety,
3 adequacy, location and other characteristics of
4 alternate housing for each party and any minor child or
5 dependent adult in the party's care;

6 (ii) the effect on the party's employment; and

7 (iii) the effect on the relationship of the party,
8 and any minor child or dependent adult in the party's
9 care, to family, school, church and community.

10 (3) Subject to the exceptions set forth in paragraph
11 (4) of this subsection, the court shall make its findings
12 in an official record or in writing, and shall at a minimum
13 set forth the following:

14 (i) That the court has considered the applicable
15 relevant factors described in paragraphs (1) and (2) of
16 this subsection.

17 (ii) Whether the conduct or actions of respondent,
18 unless prohibited, will likely cause irreparable harm
19 or continued abuse.

20 (iii) Whether it is necessary to grant the
21 requested relief in order to protect petitioner or
22 other alleged abused persons.

23 (4) For purposes of issuing an ex parte emergency order
24 of protection, the court, as an alternative to or as a
25 supplement to making the findings described in paragraphs
26 (c)(3)(i) through (c)(3)(iii) of this subsection, may use

1 the following procedure:

2 When a verified petition for an emergency order of
3 protection in accordance with the requirements of Sections
4 203 and 217 is presented to the court, the court shall
5 examine petitioner on oath or affirmation. An emergency
6 order of protection shall be issued by the court if it
7 appears from the contents of the petition and the
8 examination of petitioner that the averments are
9 sufficient to indicate abuse by respondent and to support
10 the granting of relief under the issuance of the emergency
11 order of protection.

12 (5) Never married parties. No rights or
13 responsibilities for a minor child born outside of marriage
14 attach to a putative father until a father and child
15 relationship has been established under the Illinois
16 Parentage Act of 1984, the Illinois Public Aid Code,
17 Section 12 of the Vital Records Act, the Juvenile Court Act
18 of 1987, the Probate Act of 1985, the Revised Uniform
19 Reciprocal Enforcement of Support Act, the Uniform
20 Interstate Family Support Act, the Expedited Child Support
21 Act of 1990, any judicial, administrative, or other act of
22 another state or territory, any other Illinois statute, or
23 by any foreign nation establishing the father and child
24 relationship, any other proceeding substantially in
25 conformity with the Personal Responsibility and Work
26 Opportunity Reconciliation Act of 1996 (Pub. L. 104-193),

1 or where both parties appeared in open court or at an
2 administrative hearing acknowledging under oath or
3 admitting by affirmation the existence of a father and
4 child relationship. Absent such an adjudication, finding,
5 or acknowledgement, no putative father shall be granted
6 temporary custody of the minor child, visitation with the
7 minor child, or physical care and possession of the minor
8 child, nor shall an order of payment for support of the
9 minor child be entered.

10 (d) Balance of hardships; findings. If the court finds that
11 the balance of hardships does not support the granting of a
12 remedy governed by paragraph (2), (3), (10), (11), or (16) of
13 subsection (b) of this Section, which may require such
14 balancing, the court's findings shall so indicate and shall
15 include a finding as to whether granting the remedy will result
16 in hardship to respondent that would substantially outweigh the
17 hardship to petitioner from denial of the remedy. The findings
18 shall be an official record or in writing.

19 (e) Denial of remedies. Denial of any remedy shall not be
20 based, in whole or in part, on evidence that:

21 (1) Respondent has cause for any use of force, unless
22 that cause satisfies the standards for justifiable use of
23 force provided by Article VII of the Criminal Code of 1961;

24 (2) Respondent was voluntarily intoxicated;

25 (3) Petitioner acted in self-defense or defense of
26 another, provided that, if petitioner utilized force, such

1 force was justifiable under Article VII of the Criminal
2 Code of 1961;

3 (4) Petitioner did not act in self-defense or defense
4 of another;

5 (5) Petitioner left the residence or household to avoid
6 further abuse, neglect, or exploitation by respondent;

7 (6) Petitioner did not leave the residence or household
8 to avoid further abuse, neglect, or exploitation by
9 respondent;

10 (7) Conduct by any family or household member excused
11 the abuse, neglect, or exploitation by respondent, unless
12 that same conduct would have excused such abuse, neglect,
13 or exploitation if the parties had not been family or
14 household members.

15 (Source: P.A. 96-701, eff. 1-1-10; 96-1239, eff. 1-1-11;
16 97-158, eff. 1-1-12; 97-294, eff. 1-1-12; revised 10-4-11.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.